# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

ST. LUCIE COUNTY FIRE DISTRICT	§	
FIREFIGHTERS' PENSION TRUST,	§	
Individually and on Behalf of All Others	§	
Similarly Situated,	§	
	§	Civil Action No. 4:16-cv-03569
Plaintiff,	§	
	§	
v.	§	
	§	
SOUTHWESTERN ENERGY COMPANY, et al.,	§	
	§	
Defendants.	§	

### PLAINTIFF'S THIRD NOTICE OF NEW AUTHORITY

Plaintiff respectfully submits this Third Notice of New Authority to bring to the Court's attention another recent decision granting motion to remand claims arising under the Securities Act of 1933 (the "1933 Act") to state court.

On July 21, 2017, the Honorable Claudia Wilken remanded two 1933 Act class actions to California state court in *Olberding v. Avinger, Inc.*, Nos. 17-CV-3398 (N.D. Ca.) and *Gonzalez v. Avinger, Inc.*, 17-CV-3401 (N.D. Ca.) (joint opinion attached hereto as Exhibit A) ("*Avinger*"). In addition to finding that remand was appropriate, the Court denied defendants' request that the Court not rule on Plaintiffs' motion to remand until after the Supreme Court decides *Cyan Inc. v. Beaver Cty. Emps. Ret Fund.* (15-1439), because (1) the Court lacked jurisdiction over the action, (2) a stay would prejudice plaintiffs, and (3) not granting a stay would not prejudice defendants. *Avinger* at 6-7.

DATED: July 24, 2017.

### Respectfully submitted,

#### /s/ Thomas E. Bilek

Thomas E. Bilek

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#### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was filed via the District CM/ECF system on July 24, 2017, which caused an electronic copy of same to be served automatically upon all counsel of record.

/s/ Thomas E. Bilek

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